

### **REMARKS**

Applicants have carefully reviewed the Office Action mailed August 12, 2003. Claims 1-21 are pending and were rejected.

#### **Information Disclosure Statement**

Applicants wish to alert the Examiner that they have not received an initialed copy of the Form PTO-1449 accompanying the Information Disclosure Statement mailed September 26, 2002 (and received by the PTO on October 1, 2002 as noted on return postcard). Applicants, therefore, request that you enclose an initialed copy with the next communication. As this Information Disclosure Statement was submitted prior to the mailing of a Final Office Action and was accompanied by the fee set forth in 37 C.F.R. § 1.17(p), it is entitled to consideration under 37 C.F.R. § 1.97.

Applicants note that in the Advisory Action sent on May 7, 2003, the Examiner requests that a copy of this PTO-1449 be resent. Accordingly, please find a copy enclosed.

#### **Claim Rejections—35 U.S.C. § 102**

Claim 1 was rejected under 35 U.S.C. § 102(e) as being anticipated by Samson et al. (U.S. Patent No. 6,090,099). Applicants respectfully traverse the rejection.

Samson et al. do not disclose all the elements of independent claim 1. The element of claim 1 “a distal tip having a shapable length that is shapeable by thermoforming techniques” is not a product-by-process limitation as asserted in the Office Action. It is a structural limitation entitled to full patentable weight. No equivalent structure is disclosed by Samson et al. Claim 1 does not require the length *to be shaped* by thermoforming techniques. Rather, it requires a

length that *can be shaped* by thermoforming techniques. In other words, once a catheter according to this claim is manufactured, it has a distal tip having a length that can be shaped by thermoforming techniques. Whether the catheter has a length that has been shaped by thermoforming techniques during the manufacturing process is immaterial to the requirements of the claim. It is, therefore, readily apparent that Samson et al. do not disclose a catheter having this shapeable length as well as the other elements of claim 1.

As is pointed out in the Office Action, the closest structure to the this element of claim 1 that Samson et al. disclose is when, in the manufacturing process, the outer layer 208 is attached to the catheter by heat shrinking or other suitable technique. See column 6, lines 23-31. However, this is a mere method of manufacture and does not result in a catheter having a distal tip having a shapeable length that is shapeable by thermoforming techniques, as required by claim 1.

Unlike the catheter disclosed by Samson et al., the catheter of claim 1 has a distal tip which may be given a shape, such as a bend, after it has been manufactured. For example, a doctor may be able to shape the tip of the catheter into a desired configuration for a particular patient's vasculature.

Because Samson et al. do not disclose each and every element of the invention of claim 1, they do not anticipate the claim. Applicants, therefore, submit that claim 1 is in condition for allowance.

### **Claim Rejections—35 U.S.C. § 103**

Claims 1-5, 7-10, 12 and 13 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Samson et al. Additionally, claims 1-21 were rejected under 35 U.S.C. §

103(a) as being unpatentable over Samson et al. as applied above and further in view of Nita et al. (U.S. Patent No. 5,951,539). Applicants respectfully traverse these rejections.

As discussed above in detail, Samson et al. do not disclose the element of a distal tip having a shapeable length that is shapeable by thermoforming techniques. Likewise, Nita et al. do not disclose this element. This element is required by the two independent claims, claims 1, and 14. As the prior art, alone or in combination, does not disclose each and every element of the inventions of these claims, Applicants submit that these claims are in condition for allowance. As claims 2-13 and 15-21 depend from claims 1 and 14, respectively, and contain additional elements, Applicants submit that these claims are also in condition for allowance.

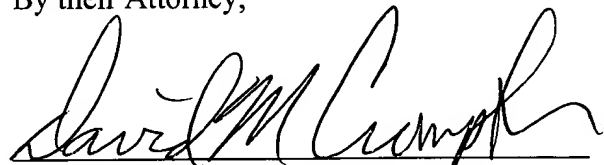
Reexamination and reconsideration are respectfully requested. It is respectfully submitted that all pending claims are now in condition for allowance. Issuance of a Notice of Allowance in due course is requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

Respectfully submitted,

Ting Tina Ye et al.

By their Attorney,

Date: 11/12/03



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This will hereby acknowledge receipt of the following documents by the Assist. Comm. of Patents and Trademarks:

Transmittal Letter, Information Disclosure Statement Before Mailing Date of Either a Final Action or Notice of Allowance (37 CFR 1.97(e)), Form PTO-1449, cited references, and a check for \$180

with respect to the following:

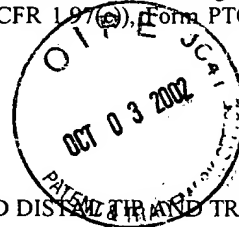
Applicant: Ting Tina Ye et al.

Serial No.: 09/945,225

Filing Date: August 31, 2001

For: MICROCATHETER WITH IMPROVED DISTAL TRANSITIONS

Docket No.: 1001.1471102



DMC/klb

09/26/02

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Tina Ting Ye et al.

Serial No.: 09/945,225

Examiner: M. DeSanto

Filed: August 31, 2002

Group Art Unit: 3763

For: MICROCATHETER WITH IMPROVED DISTAL TIP AND TRANSITIONS

Docket No.: 1001.1471102

Assistant Commissioner for Patents  
Washington, D.C. 20231

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INFORMATION DISCLOSURE STATEMENT  
BEFORE  
MAILING DATE OF EITHER A FINAL ACTION OR NOTICE  
OF ALLOWANCE (37 CFR 1.97(c))

**CERTIFICATE UNDER 37 C.F.R. 1.8:** I hereby certify that this correspondence is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the: Assistant Commissioner for Patents, Washington, D.C. 20231, on this 26th day of September, 2002.

By

David M. Crompton

Dear Sir:

Pursuant to the obligations of candor and good faith imposed by 37 C.F.R. 1.56, the documents listed on the attached PTO-1449 are hereby disclosed.

No representation is intended to be made hereby that any of the cited references establishes, by itself or in combination with other information, a prima facie case of unpatentability of any claim of the present case.

The information disclosure statement transmitted herewith is being filed after three months of

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the filing date of this national application or the date of entry of the national stage as set forth in Section 1.491 in an international application or after the mailing date of the first Office Action on the merits, whichever event occurred last but before the mailing date of either a final action under Section 1.113 or a notice of allowance under Section 1.311, whichever occurs first.

Accompanying this transmittal are fees in the amount of \$180.

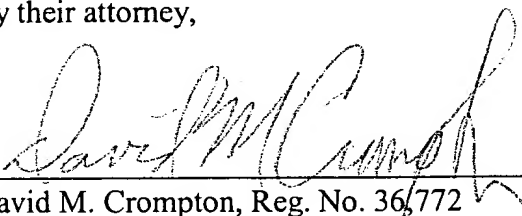
Respectfully submitted,

Ting Tina Ye et al.

By their attorney,

Dated: \_\_\_\_\_

9/26/02

  
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